

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

November 8, 2004

MISC. ORDER 2004-009

By the Court:

This court's Miscellaneous Order 2004-006 filed July 24, 2004, is vacated effective November 10, 2004. Any requests for supplemental briefing premised on *Blakely* after that date must be made in accordance with rule 41(a) of the California Rules of Court.

SCOTLAND, P.J.

MISC. ORDER 2004-010

By the Court:

Associate Justice Coleman A. Blease, is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 75, 76, 77, and 78, during the absence of the Presiding Justice from the court on November 10, 2004, and November 12, 2004, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

C042347 THE PEOPLE v. DAO et al. (Not for Publication)

The judgments are affirmed.

DAVIS, Acting P.J.

We concur: Hull, J.

Butz, J.

C045318 THE PEOPLE v. OLANIO IV (Not for Publication)

The judgment is affirmed. The trial court is ordered to correct the abstract of judgment to show that defendant was convicted of violating section 12034, subdivision (d) in count XV and forward a copy of the corrected abstract to the Department of Corrections.

NICHOLSON, J.

We Concur: Sims, Acting P.J.

Robie, J.

C045403 THE PEOPLE v. NGO (Not for Publication)

The judgment is affirmed.

HULL, J.

We Concur: Davis, Acting P.J.

Robie, J.

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November 9, 2004

- C042586 THE PEOPLE v. HALL et al. (Not for Publication)**
The judgments are modified... As modified, the judgment is affirmed. The trial court is directed to amend the abstracts of judgment to reflect these modifications and to forward the amended abstracts to the Department of Corrections.
MORRISON, J.
We Concur: Scotland, P.J.
Raye, J.
- C043185 THE PEOPLE v. BYNUM (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We Concur: Blease, Acting P.J.
Raye, J.
- C043314 THE PEOPLE v. LANE (Not for Publication)**
The trial court is directed to prepare an amended abstract of judgment crediting defendant with 551 days for time actually served, and to forward a certified copy thereof to the Department of Corrections. As modified, the judgment is affirmed.
Davis, Acting P.J.
We Concur: Robie, J.
Butz, J.
- C043439 THE PEOPLE v. MICHAELS (Not for Publication)**
The judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment to reflect: defendant was convicted of attempted voluntary manslaughter; defendant was sentenced as a two-strike offender by checking the box; the term imposed for attempted voluntary manslaughter was 11 years, deleting reference to section 667, subdivision (b) (1) under enhancements and correcting the total time imposed for the section 667 series enhancements to five years; and defendant was convicted of criminal threats (§ 422; count two) for which the court stayed sentence (§ 654). The trial court is then directed to forward a certified copy to the Department of Corrections.
HULL, J.
We Concur: Davis, Acting P.J.
Butz, J.
- C043567 THE PEOPLE v. TUNGATE (Not for Publication)**
The judgment of the trial court is affirmed.
NICHOLSON, J.
We Concur: Scotland, P.J.
Davis, J.

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November 9, 2004, continued

- C044500 THE PEOPLE v. WARDE (Not for Publication)**
The judgment is affirmed.
HULL, J.
We Concur: Davis, Acting P.J.
Robie, J.
- C044608 THE PEOPLE v. WOOD (Not for Publication)**
The judgment is affirmed as modified...
... The trial court shall forward a certified copy of the amended abstract of judgment to the Department of Corrections.
DAVIS, Acting P.J.
We Concur: Robie, J.
Butz, J.
- C044694 THE PEOPLE v. JACK (Not for Publication)**
The judgment is modified... As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.
DAVIS, J.
We Concur: Blease, Acting P.J.
Raye, J.
- C045022 THE PEOPLE v. OUBICHON (Not for Publication)**
The judgment is affirmed. The trial court shall prepare a corrected abstract of judgment to include credit for 901 actual days spent in the Department of Corrections and forward a certified copy to the Department of Corrections.
SIMS, J.
We Concur: Scotland, P.J.
Morrison, J.
- C045081 THE PEOPLE v. HODGES (Not for Publication)**
The judgment is affirmed.
Blease, J.
We Concur: Scotland, P.J.
Davis, J.
- C045101 THE PEOPLE v. GRAVES (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
Nicholson, J.

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The Minutes

November 9, 2004, continued

- C045949 THE PEOPLE v. McKNIGHT (Not for Publication)**
The judgment is affirmed. The trial court is directed to correct the abstract of judgment as stated above and to forward a certified copy of the corrected abstract to the Department of Corrections.
NICHOLSON, J.
We Concur: Sims, Acting P.J.
 Robie, J.
- C046243 THE PEOPLE v. McMINN (Not for Publication)**
The judgment is affirmed.
DAVIS, Acting P.J.
We Concur: Robie, J.
 Butz, J.
- C046380 THE PEOPLE v. HAYDEN (Not for Publication)**
The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting \$400 in restitution fines imposed pursuant to Penal Code section 1202.4 and \$400 in parole revocation fines pursuant to Penal Code section 1202.45, and to forward a copy thereof to the Director of the Department of Corrections.
ROBIE, J.
We Concur: Davis, Acting P.J.
 Butz, J.
 Nicholson, J.
- C043687 EBBETS PASS FOREST WATCH v. DEPARTMENT OF FORESTRY AND
FIRE PROTECTION et al. and SIERRA PACIFIC INDUSTRIES**
**C043825 EBBETS PASS FOREST WATCH v. DEPARTMENT OF FORESTRY AND
FIRE PROTECTION et al. and SIERRA PACIFIC INDUSTRIES**
(CERTIFIED FOR PUBLICATION)
The judgment is affirmed. The stays previously ordered are vacated. Sierra Pacific and the Department shall recover costs on appeal.
RAYE, J.
We Concur: Sims, Acting P.J.
 Hull, J.

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November 9, 2004, continued

C044467 HARRISON v. YUBA CITY RACQUET CLUB et al. and JACOBY
(Not for Publication)

The judgments on the complaint and cross-complaint are affirmed.
Defendants and cross-complainant shall recover their costs on appeal. (Cal.
Rules of Court, rule 27(a).)

SIMS, Acting P.J.

We Concur: Hull, J.
 Butz, J.

C044993 MODESTO CITY SCHOOLS v. EDUCATION AUDITS APPEAL PANEL and
OFFICE OF THE STATE CONTROLLER et al.
(CERTIFIED FOR PUBLICATION)

The judgment is affirmed. Real parties shall recover costs on appeal.

RAYE, Acting P.J.

We Concur: Hull, J.
 Robie, J.

November 10, 2004

C042806 THE PEOPLE v. MOORE **(Not for Publication)**

The judgment is affirmed.

NICHOLSON, J.

We Concur: Blease, Acting P.J.
 Raye, J.

C043131 THE PEOPLE v. CLARK **(Not for Publication)**

The judgment is affirmed.

ROBIE, J.

We Concur: Scotland, P.J.
 Raye, J.

C043147 THE PEOPLE v. TIBON **(Not for Publication)**

The judgment is affirmed.

ROBIE, J.

We Concur: Scotland, P.J.
 Raye, J.

C045307 THE PEOPLE v. FORRESTER **(Not for Publication)**

The judgment is affirmed.

NICHOLSON, J.

We Concur: Sims, Acting P.J.
 Hull, J.

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November 10, 2004, continued

- C045441 THE PEOPLE v. FUENTES (Not for Publication)**
The judgment is affirmed.
Robie, J.
We Concur: Blease, Acting P.J.
Morrison, J.
- C046636 THE PEOPLE v. McKINSEY (Not for Publication)**
The judgment is affirmed.
DAVIS, Acting P.J.
We Concur: Robie, J.
Butz, J.
- C045777 In re E.M.; THE PEOPLE v. E.M. (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Sims, Acting P.J.
Morrison, J.
- C046436 In re J.B.; El Dorado COUNTY DEPARTMENT OF SOCIAL SERVICES v.
CHARLES E. (Not for Publication)**
The judgment of disposition is affirmed.
NICHOLSON, J.
We Concur: Scotland, P.J.
Davis, J.
- C046503 In re MARISSA W. et al.; SACRAMENTO COUNTY DEPARTMENT OF
HEALTH AND HUMAN SERVICES v. TERRI E. (Not for Publication)**
The order denying the mother's petition for modification is affirmed.
NICHOLSON, J.
We Concur: Blease, Acting P.J.
Hull, J.
- C042456 THE PEOPLE v. SONG**
BY THE COURT:
Respondent's petition for rehearing is granted. The decision filed on
October 12, 2004, is vacated.
MORRISON, Acting P.J.

November 11, 2004

There were no minutes for this date.

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The Minutes

November 12, 2004

C045471 THE PEOPLE v. MATNEY II (Not for Publication)

The judgment is affirmed.

BUTZ, J.

We Concur: Sims, Acting P.J.

Raye, J.

**C045490 In re CHRISTINA T. et al.; PLUMAS COUNTY DEPARTMENT OF SOCIAL
SERVICES v. MARIA C. et al.**

BY THE COURT:

The petition for rehearing filed by appellant Maria C., is denied.

HULL, Acting P.J.